S.B.Criminal Misc. Petition No.1177/2005

(R.B.Patodia & Ors. vs. Ramesh Kumar Keshan & Ors.)

Date of order : 19.7.2006

HON'BLE MR.H.R.PANWAR,J.

None present, for the petitioner.
Mr.Chaitanya Gahlot, for respondent NO.2

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioners seek quashing of complaint No.337/2000 pending in the Court of Additional Chief Judicial Magistrate, Fatehpur (for short 'the trial court' hereinafter).

From perusal of the record, it appears that on a complaint filed by the complainant, the trial court took cognizance of the offence. When the matter came up before the Court on 6.3.2003, it was noticed that copy of the order taking cognizance is not on record and it was ordered that the same should be filed. Again on 6.5.2003, when the matter was listed before the Court and the Court noticed that the impugned order was not filed, it was directed that copy of the order impugned be filed., which has not yet been filed. The matter was listed before this Court on 12.7.2006 and no one appeared for the petitioners and

the matter was adjourned. Today also, none appears for the petitioners. It appears from the memo of petition that a complaint under section 138 of the Negotiable Instrument Act, 1881 (for short 'the Act' hereinafter) had been filed by complainant M/s Bajaj Organics Ltd. through Ramesh Kumar Keshan against the petitioner and respondent No.3. The trial court took the cognizance. It appears that the petitioner appeared before the trial court on 16.1.2003 and filed an application seeking discharge of the offence. It nowhere appears that what order has been passed by the trial court on the application. At any rate, neither the order taking cognizance nor the order passed on the application filed by the petitioner has been placed on record.

From bare perusal of the complaint filed by Ramesh Kumar against M/s Astron Drugs and Industries Ltd. & ors. and the petitioners herein, who were the non-applicant in the complaint, in my view, the complaint prima facie discloses the offence punishable under section 138 of the Act. In the circumstances, therefore, no case for quashing of the complaint is made out, more particularly when the order taking cognizance has neither been filed nor been challenged. It is settled law that inherent powers under section 482 Cr.P.C. are to be exercised sparingly or in exceptional cases. No such case has been made out from

the material placed on record.

Consequently, the criminal misc. petition is dismissed. Stay petition also stands dismissed.

(H.R.PANWAR),J.

asif/-